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**Planning and Development Acts 2000 to 2019**

**Planning Authority: Clare County Council**

**Planning Register Reference Number: R20-9**

**WHEREAS** a question has arisen as to whether the change of use of Westbrook House from a commercial guesthouse to a homeless hostel run by an approved housing body at Westbrook House, Gort Road, Ennis, County Clare is or is not development or is or is not exempted development:

**AND WHEREAS** Maria McCarthy on behalf of Aughanteeroe Residents Association of 27 Aughanteeroe, Ennis, County Clare requested a declaration on the question from Clare County Council and the Council issued a declaration on the 18<sup>th</sup> day of March, 2020 stating that the said matter is exempted development:

**AND WHEREAS** Maria McCarthy of 27 Aughanteeroe, Ennis, County Clare referred the declaration for review to An Bord Pleanála on the 3<sup>rd</sup> day of April, 2020:

**AND WHEREAS** An Bord Pleanála, in considering this referral, had regard particularly to –

- (a) Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended,
- (b) Class 6 and Class 9, of Part 4 of the Second Schedule to the Planning and Development Regulations, 2001, as amended,
- (c) The definition of “care” as set out in Article 5 of the Planning and Development Regulations 2001, as amended,
- (d) the planning history of the site, in particular the permission granted under planning register reference number 95/128,
- (e) The nature of the current use at the subject site,
- (f) The submissions on the file, and
- (g) The report of the planning inspector:

**AND WHEREAS** An Bord Pleanála has concluded that -

- (a) the permitted use on site is as a guesthouse and is, therefore, a use coming within the scope of Class 6 of Part 4 of the Second Schedule to the Planning and Development Regulations 2001, as amended, namely use as a guesthouse;

- (b) the current use is as a homeless hostel wherein the approved housing body provides support to the residents. This support is stated to include, 'supporting them to address any presenting challenges that may inhibit accessing private rental accommodation or transitioning to more permanent solutions', as recorded in an email correspondence from Clare County Council dated 18<sup>th</sup> March, 2020, on file;
- (c) the provision of the support described above falls within the scope of "care" as defined at Article 5 of the Planning and Development Regulations 2001, as amended, namely 'personal care, including help with...social needs';
- (d) the current use does not therefore come within the scope of Class 6 of Part 4 of the Second Schedule to the Planning and Development Regulations 2001, as amended, namely use as a hostel (other than a hostel where care is provided) as the current use includes the provision of care to residents and instead falls within the scope of Class 9 of Part 4 of the Second Schedule to the Planning and Development Regulations 2001, as amended, namely the provision of residential accommodation and care to people in need of care;
- (e) the current use, therefore, constitutes a change of use from the permitted use and which is a material change of use by reason of providing a different service to a different user group;
- (f) this material change of use would not come within the scope of Article 10(1) of the Planning and Development Regulations 2001, as amended, as it does not constitute a change of use within any one Class;
- (g) there are no other exemptions available for this material change of use within existing legislation:

**NOW THEREFORE** An Bord Pleanála, in exercise of the powers conferred on it by section 5 (3) (a) of the 2000 Act, hereby decides that the change of use of Westbrook House from a commercial guesthouse to a homeless hostel run by an approved housing body at Westbrook House, Gort Road, Ennis, County Clare is development and is not exempted development.

### **Matters Considered**

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

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**Chris McGarry**  
**Member of An Bord Pleanála**  
**duly authorised to authenticate**  
**the seal of the Board.**

**Dated this            day of            2020**